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INDIAN RIVER COUNTY, FLORIDA
AGENDA ITEM

Assistant County Administrator /
Department of General Services


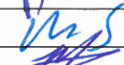

Date: October 31, 2016
To: The Honorable Board of County Commissioners
Thru: Jason E. Brown, County Administrator
From: Michael C. Zito, Assistant County Administrator 
Subject: License / Use Agreement between FEMA, Indian River County and Indian River State College for Use of Space in Brackett Library

In response to Hurricane Matthew, the County has entered into a License Agreement with the Federal Emergency Management Agency (“FEMA”). The License Agreement grants FEMA occupancy of specified rooms and facilities within the Brackett Library in order to provide disaster assistance to applicants residing in Indian River County. Indian River State College has acknowledged receipt of a copy of the License Agreement and is cooperating with the County to facilitate the terms to the Agreement. The License Agreement is attached for your information.

ATTACHMENT
License / Use Agreement

Approved Agenda Item

BY: _____
 Jason E. Brown
 County Administrator
FOR: November 8, 2016

Indian River County	Approved	Date
Administration		
County Attorney		11/2/16
Budget		11-2-16
Department		11/2/16
Risk Management		

LICENSE / USE AGREEMENT

1. **Parties.** The Parties to this Agreement are the Federal Emergency Management Agency (FEMA), Department of Homeland Security (DHS); and Indian River County, FL, (“Licensor”).

2. **Authority.** This Agreement is authorized under the provisions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121-5207, et seq.

3. **Purpose.** FEMA desires to use, and the Licensor agrees to license and permit FEMA to use the following described property (hereinafter referred to as the “Premises”) at no cost to FEMA:

Bjorkman Conference Room, (Room #105); Offices #102 and #103;
Kitchen Area #104 to include Restrooms (#106 & #107)
All located within the
Indian River County Brackett Library
6155 College Lane
Vero Beach, FL 32966

4. **Scope.** The Licensor will authorize FEMA the use of the premises identified above for the following purposes:

FEMA will use the Premises primarily as a Disaster Recovery Center where FEMA will receive members of the public for the purpose of providing information such as the status of applications, and general information on FEMA disaster assistance. Other Federal, State, local and voluntary organizations may also use the Premises to provide similar information on their programs.

5. **Duration.** This Agreement shall become effective upon execution, and expire no later than 11/28/16, unless terminated prior to that date with 10 calendar days’ notice from either party. The Agreement may be extended by mutual consent of the parties.

6. **Duties and Responsibilities.**

a. Licensor shall:

1) At no cost to FEMA, maintain the premises in good repair and condition, and supply utilities including heat, air conditioning, light, ventilation, sanitation, trash removal, and cleaning services during the period of this Agreement unless FEMA enters into separate agreements to provide for utility, sanitation and cleanings services;

2) Provide FEMA with any keys or other instruments necessary to access the Premises, as needed by FEMA, and coordinate with FEMA to assist with limiting the access of third parties;

3) Maintain at Licensor's own expense existing electrical service, and all other utilities including water and sewer for the duration of this Agreement, unless separately metered and contracted for by FEMA under separate agreements;

4) Permit FEMA to install, if necessary, electrical and telecommunications upgrades with the approval of the Licensor, which will become the property of the Licensor upon termination of the lease and not be removed by FEMA;

5) Permit FEMA to provide, as necessary, office furniture and equipment for its use. This property and other removable property provided by FEMA necessary to carry out the intended use of the Premises will remain FEMA property in the exclusive control and authority of FEMA in accordance with FEMA 119-7-1, and will be removed by FEMA upon termination of this Agreement; and

6) Permit FEMA to make other minor alterations to the Premises such as the installation of signage, which will be removed upon termination of the Agreement.

7) Maintain insurance for liability, and for loss of or damage to the property, arising from the wrongful or negligent acts or omissions of third parties.

b. FEMA shall:

1) Maintain the Premises in clean and orderly condition;

2) Surrender the Premises in the same state and condition as it was in at the commencement of FEMA use and occupancy, excepting normal wear and tear, excluding upgrades made in accordance with paragraph 6a(4) above, and including the removal of any items installed in accordance with 6a(5) and (6) above;

3) Provide for any required security or cleaning services under separate contract at FEMA expense; and

4) Permit the Licensor to enter the Premises with approval of the designated FEMA Point of Contact, or as otherwise coordinated for routine entry or shared use, as described in paragraph 3 of this Agreement.

7. **Non-Fund Obligating Agreement.** Nothing in the Agreement shall authorize FEMA to obligate or transfer any funds in connection with FEMA's use and occupancy of the Premises. Any additional work or activity that would require the transfer of funds or the provision of goods or services among the parties will require execution of a separate agreement and will be contingent upon the availability of appropriated funds. Such activity must be independently authorized by appropriate statutory authority. This Agreement does not provide such authority.

8. **Liability.** Licensor and the United States each agree to be responsible for the negligent or wrongful acts or omissions of their respective employees arising under this agreement. The parties agree --

subject to any limitations imposed by law, rule, or regulation -- to cooperate in good faith to resolve any claims promptly and, whenever appropriate, without litigation. For all claims or suits arising under this agreement, each party's designated legal representatives will, within (7) calendar days of receipt, provide each other's designated legal representatives copies of any documents memorializing such claims. Nothing in this Agreement shall be construed as a waiver of any sovereign immunity of the United States. The Federal Tort Claims Act (FTCA), 28 U.S.C. §§ 1346 (b), 2671-2680 provides the exclusive monetary damages remedy for allegedly wrongful or negligent acts or omissions by federal employees within the scope of their employment. Nothing in this Agreement shall be construed as a waiver of sovereign immunity by any party to this Agreement

9. Compliance with Applicable Law: The Licensor shall comply with all Federal, State and local laws applicable to the Licensor as owner, or Licensor, or both of the Premises, including, without limitation, laws applicable to construction, ownership, alteration or operation of both or either thereof, and will obtain and maintain all required and permits, licenses and similar items, at no cost to FEMA. United States law will be applied to resolve any dispute or claim.

10. Proper Use of Premises. Licensor warrants that the Premises may be used for the purposes intended by FEMA as described in this Agreement. Nothing in this Agreement shall be construed to create a duty on FEMA to inspect for toxic material or latent environmental conditions which could be affected by FEMA's intended use of the Premises. Any known environmental conditions which could affect FEMA's use of the Premises, known to the Licensor, must be disclosed to FEMA.

11. Integrated Agreement: This Agreement contains the entire agreement of the parties. No agreement outside of this document can alter these provisions. Any changes to this Agreement must be made in writing with the mutual consent of the parties.

12. Points of Contact.

- a. The FEMA Point of Contact is:
Caron Hayes
516-507-0537
- b. The Licensor's Point of Contact is:
Etta LoPresti
772-226-3856

13. Other Provisions. Nothing in this agreement is intended to conflict with current law or regulations or the directives of DHS/FEMA. If a term of this agreement is inconsistent with any such authority, then that term shall be invalid, but the remaining terms and conditions of this agreement shall remain in full force and effect.

14. Effective Date. The terms of this agreement will become effective on the date of signature of the authority representatives of all parties.

15. Modification. This agreement may be modified upon the mutual written consent of the parties.

IN WITNESS WHEREOF the parties hereto have executed these presents this 29TH day of OCTOBER, 2016.

BY: [Signature]
Title: Asst. County Administrator

INDIAN RIVER COUNTY, FLORIDA
BOARD OF COUNTY COMMISSIONERS
BY: [Signature]
Jason E. Brown, County Administrator
Pursuant to IRC Code §105.01

Date approved: 10/27/16

ATTEST Jeffrey R. Smith Clerk of the Court
And Comptroller

BY: _____
Deputy Clerk of Court

Approved as to form and
legal sufficiency:

[Signature]
William K. DeBraal
Deputy County Attorney

FEDERAL EMERGENCY MANAGEMENT AGENCY

Clate J Strayer - "FEMA DRC MGR"
By: Joe Dellamura
External Support Branch Director
FEMA-DR-4283-FL (Hurricane Mathew)
Florida State Emergency Operations Center